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DEPARTMENT OF  
EDUCATION

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ATTORNEY GENERAL

Department of Justice

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September 12, 2008

The Honorable Judy A. Jeffrey, Director  
Iowa Department of Education  
Grimes State Office Building – 2<sup>nd</sup> Floor  
L-O-C-A-L

Dear Director Jeffrey:

You have requested guidance from this office regarding application of Iowa Code subsection 257.6(1)(a)(4). Specifically, you ask whether the “junior-senior rule” established by this subsection applies to a pupil who has moved outside of the state of Iowa. Because our system of public schools is designed to fulfill the constitutional obligation to provide a free education to children residing in Iowa, we conclude that the statute should be applied only to students who reside within Iowa.

The statute at issue appears in chapter 257 of the Code, which establishes our system of financing public school programs. The Iowa school financing formula is largely pupil-driven. The amount of state foundation aid received by a school district equals “an amount per pupil equal to the difference between the amount per pupil of foundation property tax in the district, and the combined foundation base per pupil or the combined district cost per pupil, whichever is less.” Iowa Code § 257.1(2) (2007). Code section 257.6(1) provides for the calculation of the “actual enrollment” for each school district for use in the finance formula. Subsection (1)(a)(4) allows a school district to include in the enrollment count

[e]leventh and twelfth grade nonresident pupils who were residents of the district during the preceding school year and are enrolled in the district until the pupils graduate. Tuition for those pupils shall not be charged by the district in which the pupils are enrolled and the requirements of section 282.18 [procedures for open enrollment] do not apply.

Iowa Code § 257.6(1)(a)(4) (Supp. 2007).<sup>1</sup>

This provision is commonly known among Iowa school districts as the “junior-senior rule.” As you observe in your request letter, the rule appears to be intended to “allow juniors and seniors to complete their secondary education at the district in which they were enrolled the previous year even if they no longer are residents of the district.” Clearly, if a pupil and his family move from one Iowa school district into another Iowa district immediately prior to or during the pupil’s junior or senior year of high school, the pupil may continue to enroll and complete his education at the first school district without paying tuition or going through the open enrollment process and the district which the student attends may continue to include the pupil within its actual enrollment count and receive state foundation aid toward the cost of educating the pupil. You ask whether the statute also applies to permit a pupil who has moved to another state to continue to attend the Iowa district of prior enrollment.

Our interpretation of the statute is guided by familiar principles of statutory construction, with the ultimate goal of determining legislative intent. City of Cedar Rapids v. James Properties, Inc., 701 N.W.2d 673, 675 (Iowa 2005). The “first step in ascertaining the true intention of the legislature is to look to the statute’s language.” Gardin v. Long Beach Mortg. Co., 661 N.W.2d 193, 197 (Iowa 2003). As the Iowa Supreme Court has frequently articulated, “we do not speculate as to the probable legislative intent from the words used in the statute.” City of Cedar Rapids, 701 N.W.2d at 675 (quoting City of Fairfield v. Harper Drilling Co., 692 N.W.2d 681, 684 (Iowa 2005)). “When the language of a statute is plain and its meaning is clear, the rules of statutory construction do not permit us to search for a meaning beyond the statute’s express terms. A statute is ambiguous if reasonable minds could differ or be uncertain as to the meaning of the statute.” City of Waterloo v. Bainbridge, 749 N.W.2d 245, 248 (Iowa 2008).

Subsection 257.6(1)(a)(4) provides that “[e]leventh and twelfth grade *nonresident pupils* who were residents of the district during the preceding school year” are entitled to continue to attend the district from which they moved without complying with open enrollment procedures or paying tuition. The district is allowed to include these students within the district’s actual enrollment count for calculating and receiving state aid. The key to resolving your inquiry is whether the term “nonresident pupil” includes only pupils who remain in Iowa or also includes those who have moved outside of the state. The term “nonresident pupil” is not defined within chapter 257, or elsewhere within the Iowa Code. “Therefore, ‘we may refer to prior [judicial decisions], similar statutes, dictionary definitions, and common usage’ to determine its meaning.” Cubit v. Mahaska County, 677 N.W.2d 777, 783 (Iowa 2004) (quoting State v. Kellogg, 542 N.W.2d 514, 516 (Iowa 1996)).

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<sup>1</sup> Code section 257.6 was amended by 2007 Iowa Acts (81<sup>st</sup> G.A.), ch. 22, § 59. The 2007 amendment separated and numbered the rest of the former unnumbered paragraphs within subsection 257.6(1). The subsection at issue here, previously designated as 257.6(1)(d), was not amended.

Because chapter 257, which establishes Iowa's school finance system, is closely related to provisions within chapter 282 regarding school attendance and tuition, we believe that otherwise undefined terminology should be read as having the same meaning in both statutes. "Statutes relating to the same subject matter, or to closely allied subjects, may properly be construed, considered and examined in light of their common purposes and intent." State v. Peterson, 347 N.W.2d 398, 402 (Iowa 1984). In Iowa, as in most states, the obligation to provide public education extends only to school-age children residing within the state. See IOWA CONST. ORIGINAL, ART. IX, 1<sup>ST</sup> DIV, §§ 1, 8, 12 and 15 (requiring the general assembly to "provide for the education of all the youths of the State"); Fennelly v. A-1 Machine & Tool Co., 728 N.W.2d 163, 173-74 (Iowa 2007) ("a comprehensive statutory scheme exists that defines the role of the state and the state department of education to provide a public education to Iowa's young people").

Public schools in Iowa are "free of tuition to all actual residents between the ages of five and twenty-one . . ." Iowa Code § 282.6 (unnumbered ¶ 1) (2007). For the purposes of section 282.6, "'resident' means a person who is physically present in a district" and meets other statutory criteria. Iowa Code § 282.6 (unnumbered ¶ 3) (2007). Absent an applicable statutory exception, "[n]onresident children shall be charged the maximum tuition rate as determined under section 282.24, subsection 1." Iowa Code § 282.1 (unnumbered ¶ 1) (2007) (the maximum tuition fee "is the district cost per pupil of the receiving district as computed in section 257.10"). Chapter 282 contains no provision for the payment of tuition by the parents of nonresident students. Rather, the tuition payments for nonresident children, prescribed by section 282.24, are paid by the "school corporation in which the student resides." Iowa Code § 282.20 (2007) (unnumbered ¶ 1). The Iowa legislature is empowered to require Iowa public school districts to make tuition payments, but lacks the authority to mandate tuition payments by out-of-state school districts. Given the statutory context, we believe that the legislature intended the term nonresident, as used in section 257.6 and throughout chapter 282, to mean residents of Iowa, but who reside outside of the school district which they attend.

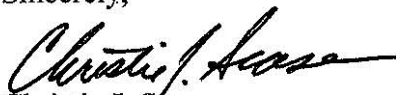
In examining judicial decisions, we find that disputes regarding application of the term "nonresident children," as used in chapter 282, have typically arisen in the context of tuition charges to in-state nonresident students. C.f. Lakota Consol. Indep. Sch. v. Buffalo Center/Rake Comm. Schs., 334 N.W.2d 704 (Iowa 1983) (holding that an Iowa school district stated a viable claim for injunctive, declaratory, and monetary relief based upon allegations that a neighboring Iowa school district allowed residents of the plaintiff district to attend school without charging tuition to the "nonresident students" as required by statute); Independent Sch. Dist. of Danbury v. Christiansen, 242 Iowa 963, 49 N.W.2d 263 (1951) (mandamus action against county auditor to compel transfer of tuition funds by county from Iowa district in which students resided to Iowa district educating students). We find no judicial decision addressing whether the term "nonresident" includes students living outside of Iowa.

When construing a statute, our Supreme Court "look[s] at the object sought to be accomplished and the evils and mischief sought to be remedied to arrive at an interpretation that will accomplish the intended purpose rather than one which will defeat it." State v. Moore, 569 N.W.2d 130, 132 (Iowa 1997). Although section 257.6 does not explicitly distinguish between in-state and out-of-state nonresident pupils, we believe it is unlikely that the legislature intended

the junior-senior rule to allow students residing outside of the state to attend Iowa public schools at taxpayer expense without paying tuition. The function of our public school system is to provide an education to Iowa's young people, as mandated by our state Constitution. IOWA CONST. ORIGINAL, ART. IX, 1<sup>ST</sup> DIV. Public schools are funded through a combination of local property taxes, state aid, and federal funds – which are generally targeted to specific programs. See e.g. Fennelly, 728 N.W.2d at 173-74; Iowa Code § 256.9(7) (authorizing the director of the department of education to accept federal funds appropriated for education and rehabilitation purposes).

Our system of public schools is designed to fulfill the constitutional obligation to provide a free education to the children of this state and we do not believe that the junior-senior rule is intended to allow students residing outside of Iowa to attend Iowa public schools without paying tuition. Therefore we conclude that Iowa Code subsection 257.6(1)(a)(4) should be applied only to students who reside within Iowa.

Sincerely,

A handwritten signature in black ink, appearing to read "Christie J. Scase", written in a cursive style.

Christie J. Scase  
Assistant Attorney General